

SUBCHAPTER E : LAKE BROWNWOOD

§284.81. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Commission - The Texas Water Commission.

District - The Brown County Water Improvement District No. 1.

Evapotranspiration beds - The part of a septic tank system consisting of two or more beds with drainage pipes that utilize evaporation and transpiration for the disposal of septic tank effluent.

Evapotranspiration system - Any subsurface system which utilizes surface evaporation and plant transpiration for the ultimate disposal of wastewater.

Executive director - The executive director of the Texas Water Commission.

Holding tank system - A system for collecting and holding sewage and consists of a holding tank and house sewer.

Holding tank - A vented, watertight tank used for storing sewage until it is hauled to a final disposal site.

House sewer - The lines which carry sewage from the house plumbing system to a septic tank or holding tank.

Lake Brownwood - The lake in Brown County created by the dam located approximately seven miles northwest of the City of Brownwood on the Pecan Bayou.

msl - The abbreviation for mean sea level.

Organized disposal system - Any public or private system for the collection, treatment and disposal of sewage, operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

Private sewage facilities - Facilities provided to serve only an individual household or establishment and appurtenant structures within a designated area and whose operation and maintenance is the sole responsibility of the householder or owner of the establishment's facilities. Such facilities provide for the storing of sewage until it is hauled to a final disposal site or for the disposal of treated wastewater by subsoil absorption, evaporation or evapotranspiration and are not subject to the issuance of waste discharge permits by the Texas Water Commission.

Septic tank - A vented, watertight tank which serves as a sedimentation and sludge digestion chamber and which is placed between the house sewer and the soil absorption system or evapotranspiration beds.

Septic tank system - A system for disposing of sewage utilizing the following components: the house sewer, the septic tank and the soil absorption system or evapotranspiration system.

Sewage - Waterborne human wastes and other domestic wastewater, including laundry wastes.

Soil absorption system - Any system that utilizes the soil for subsequent absorption of the treated sewage; such as an absorption trench or absorption bed.

Subdivision - A subdivision which has been platted and recorded with the county clerk of the county in which the land lies, or which is required by statute to be so platted and recorded.

§284.82. Regulated Area.

The commission designates the Lake Brownwood regulated area as being all the area in the Lake Brownwood watershed situated between the normal lake shoreline, which is the 1,425-foot msl contour line, and a line parallel to and 2,000 feet horizontally away from the 1,425-foot msl contour line. If any part of a subdivision lies within the regulated area, the entire subdivision is included within the regulated area for the purpose of this subchapter.

§284.83. Restricted Zone.

(a) Within the regulated area, the commission designates the Lake Brownwood restricted zone as being all of the area situated between the normal lake shoreline, which is the 1,425-foot msl contour line, and a parallel line which is located a distance of 75 feet from the 1,425-foot msl contour line, measured horizontally away from the lake shoreline.

(b) The construction of soil absorption systems, or parts thereof, is not allowed within any portion of the restricted zone. Septic tanks, holding tanks, tile or concrete sanitary sewer lines, sewer manholes, or other such sewerage facilities which are constructed in such a manner that an interchange of sewage with lake water might possibly occur may not be constructed within the restricted zone.

§284.84. Regulations Controlling the Discharge of Sewage within the Regulated Area.

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorization:

(1) sewage discharged into an organized disposal system operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed by the district in accordance with the regulations contained in this subchapter; or

(3) sewage discharged into a private sewage facility existing as of the effective date of this subchapter, for so long as such private sewage facility is operating properly and is not causing nuisance conditions, pollution or a threat to public health.

§284.85. Authority Designated to Perform Licensing Functions.

(a) The Brown County Water Improvement District No. 1 is designated by the commission to perform all the functions necessary to meet the licensing and enforcement requirements of this subchapter. The district shall have the power to:

(1) enforce all the regulations contained in this subchapter;

(2) make inspections of all private sewage facilities located or to be located within the regulated area;

(3) collect all fees set by these regulations;

(4) establish procedures, prepare application forms, etc., as necessary to administer this program and issue, renew, cancel or transfer licenses, in accordance with the provisions of this subchapter; and

(5) perform all duties necessary to meet the requirements of this subchapter.

(b) The licensing requirements contained in this subchapter shall not be interpreted as altering or changing in any way the intent of the legislature as expressed in the Texas Civil Statutes, Article 4477-1.

§284.86. Licensing Requirements for New Private Sewage Facilities.

(a) Private sewage facilities installed, or substantially altered, within the regulated area after the effective date of this subchapter must meet the following requirements.

(1) All private sewage facilities to be installed or constructed after the effective date of this subchapter shall be built in accordance with the then applicable standards and criteria established by the Texas Department of Health.

(2) A license for the private sewage facility must be obtained from the district.

(3) Lots or tracts which will be served by private sewage facilities and which are located in a subdivision that is created subsequent to the effective date of this subchapter must average no less than one-half acre in size, considering all lot sizes in the particular subdivision, with the minimum size being 15,000 square feet for lots served by a public water supply and 20,000 square feet for lots served by individual water supply wells.

(4) A lot or tract that is not located in a subdivision or that is located in a subdivision that was created prior to the effective date of this subchapter must be large enough, considering the soil and drainage conditions and probable volume of sewage to be disposed of, to permit the use of the type of private sewage facility proposed without causing nuisance conditions, pollution or a threat to public health.

(5) Notwithstanding any minimum lot size stated herein, the district shall have the authority to increase any lot size necessary for a septic tank system to function properly where multiple family units are involved or other special circumstances exist such as unusual terrain or soil conditions.

(6) Approval for construction of private sewage facilities issued hereunder will expire unless the facilities are built within one year of the date that the approval is issued by the district.

(b) Any developer or other interested person desiring to create a subdivision which will lie wholly or partially in the regulated area and on which private sewage facilities will be utilized must fulfill the following requirements.

(1) A plat of the proposed subdivision must be filed with and approved by the county commissioners courts having jurisdiction in the area, and it must then be recorded with the appropriate county clerk.

(2) An appropriate application for evaluation as to the type of private sewage facilities that may be licensed and used in the subdivision, together with the required fee, shall be filed with the district.

(3) The district will perform the necessary tests and inspections and advise the applicant as to the types of private sewage facilities that may be suitable for use in the subdivision.

(4) Advice by the district as to types of private sewage facilities that may be suitable for use in the subdivision shall not constitute a license for a specific private sewage facility but shall be a prerequisite for obtaining licenses for such facilities within the subdivision.

(5) Notice of this subchapter and its terms and conditions, as well as its applicability to the subdivision and each lot therein, must be given to every lot buyer by the developer, his agent or his assigns, prior to the sale or transfer of any lot.

(c) License for a new private sewage facility shall be obtained as follows:

(1) Application forms for a license may be obtained from the offices of the district. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the district.

(2) The district will, as soon as practicable after filing of an application, perform such inspections and tests as may be deemed necessary.

(3) Upon a finding that the proposed private sewage facility can meet the requirements of this subchapter and that there is no evidence that it will cause nuisance conditions, pollution or a threat to public health, the district will issue an authorization to proceed with its construction.

(4) The applicant shall notify the district when the completed facility can be inspected prior to being backfilled with earth or otherwise covered. If the district finds, on the basis of a field inspection, that the facility has been constructed in accordance with the authorization, a one-year license will be issued for its operation.

(d) The license issued by the district for the new private sewage facility may be renewed for successive terms of one year if there is no evidence that the continued use of the private sewage facility will be in conflict with this subchapter or that continued use may cause nuisance conditions, pollution or a threat to public health.

(e) Upon a finding by the district that a license for the new private sewage facility cannot be issued or renewed under the terms of this subchapter, the applicant shall be notified in writing of that finding and of the faults which prevent licensing.

§284.87. Existing Private Sewage Facilities.

(a) Private sewage facilities existing within the regulated area as of the effective date of this subchapter are not required to be licensed so long as the facility was not changed nor the loading on it increased, provided the facility is operated and maintained so as not to cause nuisance conditions, pollution or a threat to public health. Facilities which may be repaired without significant modification need not be licensed.

(b) Any existing facility found by the district at any time to be functioning improperly or in such a manner as to cause nuisance conditions, pollution or a threat to public health must be improved or replaced by the owner, and must be licensed as a new facility following the procedures prescribed in §284.86 of this title (relating to Licensing Requirements for New Private Sewage Facilities). The owner of such malfunctioning facility must immediately stop discharging sewage into the malfunctioning facility and must submit an application for a license within 30 days after receipt of written notification by the district that the existing facility is functioning improperly. If an owner of an existing facility desires on his own initiative to expand, improve or replace such existing facility, he must obtain a license for such expanded, improved or replacement facility following the procedures prescribed in §284.86 of this title (relating to Licensing Requirements for New Private Sewage Facilities). Routine maintenance and repair of existing facilities may be accomplished without obtaining a license.

§284.88. Revocation or Suspension of License.

Licenses issued under the authority of this subchapter may, for good cause, be revoked or suspended by the district. Prior to any action on the proposed revocation or suspension the licensee must be given notice of the proposed action and be given an opportunity for a hearing. Owners of facilities for which licenses are revoked or suspended must immediately stop discharging sewage into such facilities upon written notification by the district.

§284.89. Transfer of Licenses.

Any license issued under the authority of this subchapter shall be transferred to any succeeding owner of a private sewage facility upon submission of an application and payment of a transfer fee by the new owner. The district may inspect the facility, and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility and no evidence of malfunctioning of the facility is found, shall transfer the license as requested. Licenses not properly transferred within 90 days to a new owner may be cancelled by the district. If the license is cancelled, the new owner must submit an application for a new license within 30 days after notification by the district of cancellation.

§284.90. License Fee.

License fees will be in accordance with §284.96 of this title (relating to Fee Schedule). These fees shall be paid to and collected by the district so long as the district is delegated the licensing function and the administration of the licensing system specified in this subchapter. The establishment of the fee schedule does not impair or prohibit the imposition of reasonable charges by the district for special services performed by it at the request of the application in connection with presentation of an application and the required data. Percolation tests and other examinations will be performed by the district on a cost basis. These tests may also be performed by engineering firms or soil testing laboratories approved by the district.

§284.91. Connection of Private Sewage Facility to Organized Disposal System.

In order to implement the stated policy of the legislature and the commission that the development and use by interested and affected parties of organized disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements shall be observed:

(1) No private sewage facility will be licensed by the district when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment and disposal system. Instead, the house sewer to such facility shall be connected to the organized system, unless it is determined by the district that connection to the organized system is legally, physically or economically infeasible.

(2) Whenever an organized disposal system is developed to within 300 feet in horizontal distance from any part of an existing private sewage facility, the house sewer connected to such facility shall be connected to the organized system and the license issued hereunder for that private sewage facility shall not be renewed on the next succeeding renewal date, unless it is determined by the district that such connection is legally, physically or economically infeasible.

§284.92. Exceptions.

It is the intention of the commission that this subchapter shall be strictly enforced. It is recognized that some situations may arise whereby the strict and literal enforcement of the terms of this subchapter would impose undue hardships and would not be necessary to protect and enhance the quality of the waters in the lake. It is the commission's intention that exceptions only be granted in those circumstances where the granting of an exception would not pose potential harm to the quality of the waters in the lake. In the event a person desires to be granted an exception to the terms of this subchapter, an application for each exception shall be filed with the district. This application shall set out the exact particulars of the exception requested, and confirm all data which would substantiate a finding that an exception is warranted. The district will review all such requests and issue a statement which either grants or denies the application. This statement shall set out the reason for the decision of the district.

§284.93. Terms and Conditions of Appeal.

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the district and the individuals involved, if possible. However, any person aggrieved by an action or decision of the district may appeal to the commission if the following terms and conditions are met.

(1) All of the appropriate steps required by the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director who will then cause notice of the appeal to be issued to the District. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

§284.94. Enforcement of This Subchapter.

(a) Criminal Penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

§284.95. Severability.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this subchapter which can be given effect without the invalid provisions or application, and to this end the provisions of this subchapter are declared severable.

§284.96. Fee Schedule.

The district shall establish a fee schedule for the private sewage facilities regulatory program around Lake Brownwood and maintain a copy of such fee schedule at the district's offices in Brownwood, Brown County, Texas, for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the district and may, subject to applicable laws, be amended by the district from time to time.